

FILED

JAN 12 2015

**New Jersey State Board of
Massage and Bodywork
Therapy Examiners**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MASSAGE AND BODYWORK
THERAPY

IN THE MATTER OF THE
APPLICATION OF

SHANJI BAI

FINAL ORDER OF
DENIAL OF LICENSURE

TO PRACTICE MASSAGE AND
BODYWORK THERAPY IN THE
STATE OF NEW JERSEY

This matter was opened to the Board of Massage and Bodywork Therapy ("the Board") upon receipt of information which the Board has reviewed and the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Shanji Bai submitted an application for licensure by the Board.
2. On Ms. Bai's application, she indicated that she had never been charged with or convicted of any crime or offense.
3. A criminal history background check revealed that Ms. Bai had been charged with prostitution and with unauthorized practice of a profession in 2010 in New York. She was convicted of disorderly conduct/creating a hazardous environment, and sentenced to a conditional discharge.

4. Ms. Bai claimed she did not respond accurately to the questions on the application relating to arrests and convictions because she was found not guilty of the charge, and the case was dismissed. She acknowledged that the arrest occurred at a "massage store."

CONCLUSIONS OF LAW

1. Ms. Bai's failure to disclose the arrest and to accurately describe the disposition of the arrest constitutes misrepresentation in violation of N.J.S.A. 45:11-21(b) with respect to charges that relate adversely to the practice of massage and bodywork therapy.

DISCUSSION

1. Based on the foregoing findings and conclusions, a Provisional Order of Order of Discipline ("POD") was entered by this Board on August 4, 2014 and served upon Respondent at the last known address by regular and certified mail on August 4, 2014.

2. The POD was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact and Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence

supporting Respondent's request for consideration and reasons therefor.

3. A written request with attachments seeking modification of the POD was submitted by Respondent's attorney, Ji-Hae Bai, Esquire, on the ground that Respondent did not disclose her arrest as the resulting charges were dismissed leading her to believe that the arrest was expunged. Respondent alleged that her omission to reveal the arrest was not intentional or a misrepresentation and that she "honestly believed that her arrest was expunged in light of the fact that two of her charges were dismissed and one charge was reduced to a class B misdemeanor. " Respondent also noted that as a lay person who was only arrested once, and not familiar with the criminal justice system, it was easy to understand how Respondent could misinterpret the disposition of her matter when answering the questions on the application.

4. The Acting Attorney General opposed a modification of the POD arguing that Respondent unreasonably decided she had never been arrested and had never pled guilty. Her actions in reaching this conclusion led her to provide inaccurate information to the Board.

5. Accordingly, the Board considered the matter. The Board agreed that a lay person who was unfamiliar with the criminal system could interpret that expungement of the criminal charges might also include the dismissal of the arrest record. While the

Board was concerned because the nature of the charges occurred in a massage establishment, the Board gave consideration to the mitigating circumstances presented by the Respondent and agreed to reduce the period barring re-application from a two year period to a one year period.

ACCORDINGLY,

IT IS on this *12th* DAY of *January*, 2015,

ORDERED that:

1. Ms. Bai's application for licensure as a massage and bodywork therapist in the State of New Jersey is hereby provisionally denied. No subsequent application for licensure will be entertained for a period of one year, dating from the filing of a Final Order in this matter.

NEW JERSEY STATE BOARD OF
MASSAGE AND BODYWORK THERAPY

By:

Cynthia Sinicropi-Philibosian
Cynthia Sinicropi-Philibosian
Chairperson